IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

O R D E R

Hinglaj Singh Vs. State of Rajasthan
S.B. CR. REVISION PETITION NO.991/2006

Against order dated 08.08.2006 passed by Addl. Sessions Judge No.1, Chittorgarh in Criminal Appeal No.50/2006 (Hinglaj Singh Vs. State of Rajasthan).

DATE OF ORDER :: 14th November, 2006.

PRESENT

HON'BLE MR.JUSTICE SATYA PRAKASH PATHAK

Mr. R.K. Charan for petitioner.
Mr. V.R. Mehta, Public Prosecutor.

BY THE COURT:

The present criminal revision petition under Sec.397 & 401 Cr.P.C. challenges the order dated 08.08.2006 passed by Addl. Sessions Judge No.1, Chittorgarh in Criminal Appeal No.50/2006 (Hinglaj Singh Vs. State of Rajasthan) filed against the order dated 18.02.2006 passed by learned Addl. Chief Judicial Magistrate No.1, Chittorgarh in Criminal Misc. Case

No.66/05 ordering recovery under Sec.446 Cr.P.C. of surety amount Rs.10,000/- from petitioner.

The only submission made before me by the learned counsel is that learned trial Court has forfeited the entire surety amount Rs.10,000/- and the petitioner being a poor man the order impugned will cause great hardship to him, therefore, taking a sympathetic view proper order may be passed reducing the amount of forfeiture appropriately.

On the other hand, learned Public Prosecutor has supported the orders impugned.

I have considered the submissions made before me.

It appears from the perusal of the file that the learned trial Court initiated proceedings under Sec.446 of the Cr.P.C. and since petitioner and other surety were absent, the entire surety amount was ordered to be recovered from both the surities. This order was passed on 18.02.2006, which on challenged in appeal before the

learned Addl. Sessions Judge, has been upheld.

In this case, there appears no legal infirmity in the orders passed by the two courts below but taking into consideration the submission of the learned counsel that the petitioner is a poor person and a request to consider the matter sympathetically is made, in the facts and circumstances of the case, in my humble opinion it would be proper to reduce the amount of forfeiture from Rs.10,000/- to Rs.5,000/-.

Accordingly, the revision petition is partly allowed and the orders of the learned trial Court and that of the appellate Court are modified to the extent that instead of recovering Rs.10,000/- from petitioner, now only a sum of Rs.5,000/- shall be recovered from him.

Since the amount forfeited is being reduced in respect of the present petitioner and the other surety Bajranglal is not before the Court, therefore, in the interest of justice, I deem it proper also to reduce the amount ordered to be recovered from other surety and direct that

this order shall apply in respect of other surety Bajranglal also and from him too only a sum of Rs.5,000/- shall be recovered treating him at par with the present petitioner.

(SATYA PRAKASH PATHAK) J.

/jpa